

## CHAPTER 1084

S.B. No. 1273

## AN ACT

permitting governmental units to issue obligations to fund self-insurance and to form or become members of risk retention groups.

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1. LEGISLATIVE FINDING AND PURPOSE.** The legislature finds that certain types of insurance coverage are not available to state agencies and institutions and local governments of this state and that certain available coverages are unduly expensive. Also, the legislature determines that it is imperative that state agencies and institutions and local governments have the authority to provide coverage against any insurable risk at the lowest possible costs.

**SECTION 2. DEFINITIONS.** In this Act:

(1) "Bonds" means bonds, certificates, notes, and other obligations authorized to be issued by an issuer under this Act.

(2) "Governmental unit" means:

(A) a state agency or institution;

(B) a local government; or

(C) an entity acting on behalf of the state agency, institution, or local government.

(3) "Local government" means a county, municipality, school district, junior college district or other special district, any other political subdivision of this state, or any combination of political subdivisions, including combinations created under The Interlocal Cooperation Act (Article 4413 (32c), Vernon's Texas Civil Statutes).

(4) "State agency or institution" means any state agency or institution, including institutions of higher education.

**SECTION 3. APPLICABLE LAWS.** This Act is cumulative of all laws affecting the issuance of bonds by governmental units, including Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes), and those laws apply to all bonds issued under this Act, including bonds issued by local governments. If there is a conflict between those laws and this Act, this Act prevails.

**SECTION 4. SELF-INSURANCE FUND.** (a) Each governmental unit may issue bonds, the proceeds of which are to be used for all or any portion of a self-insurance fund to protect the governmental unit and its officers, employees, and agents, from any insurable risk or hazard, or use any funds or money available to the governmental unit for the self-insurance fund.

(b) The legislature finds and determines that the issuance of bonds or the use of available money for the self-insurance fund is a valid public purpose for each governmental unit.

(c) Bonds issued by a local government may be payable from taxes levied by and revenues of the local government, including ad valorem, sales, and hotel occupancy taxes, revenues derived by the local government from any system or other specified source, or any combination of taxes and revenues. If a local government desires to issue bonds payable from ad valorem taxes for the purpose described in this section, the law under which the local government issues bonds for other purposes controls the necessity for an election, and the elections shall be held pursuant to Chapter 1, Title 22, Revised Statutes, or any other law applicable to the local government.

(d) A municipality or county may issue and sell for cash, at public or private sale, certificates of obligation for the creation and operation of a self-insurance fund autho-

rized by this Act as provided by The Certificate of Obligation Act of 1971 (Article 2368a.1, Vernon's Texas Civil Statutes).

(e) Bonds issued by a state agency or institution may be payable from any available source of revenue.

(f) Bonds issued by a governmental unit under this Act may be sold at public or private sale.

(g) The provisions of the Insurance Code and other laws of this state relating to the provision and regulation of insurance do not apply to the proceeds of bonds issued or to agreements entered into under this section.

**SECTION 5. RISK RETENTION GROUPS.** (a) Governmental units may also form or become members of risk retention groups created under the federal Liability Risk Retention Act of 1986 for the purpose of obtaining insurance against any insurable risk.

(b) A local government may use proceeds of taxes levied by and revenues of the local government, including ad valorem, sales, and hotel occupancy taxes, revenue derived by the local government from any system or other specified source, or any combination of taxes and revenues for the purposes described in Subsection (a) of this section.

(c) If a local government does not have authority to levy ad valorem taxes for payment of contractual debts, risk retention group agreements may be payable from annual appropriations of ad valorem tax proceeds.

(d) State agencies and institutions may make payments under risk retention group agreements from any source, including legislative appropriations.

**SECTION 6. IMMUNITY; DEFENSES.** The establishment and maintenance of a self-insurance program by a governmental unit does not constitute a waiver of immunity or defense of the governmental unit or its employees.

**SECTION 7. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on May 15, 1987, by the following vote: Yeas 30, Nays 0. Passed the House on May 29, 1987, by the following vote: Yeas 147, Nays 0, one present not voting.

Approved June 20, 1987.

Effective June 20, 1987.